

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

HEALTH DISCOVERY CORPORATION,
Plaintiff-Appellant

v.

INTEL CORPORATION,
Defendant-Appellee

2022-1446

Appeal from the United States District Court for the Western District of Texas in No. 6:20-cv-00666-ADA, Judge Alan D. Albright.

ON MOTION

Before LOURIE, TARANTO, and HUGHES, *Circuit Judges*.

PER CURIAM.

O R D E R

Health Discovery Corporation (HDC) moves pursuant to Rule 42(b) of the Federal Rules of Appellate Procedure to dismiss this appeal and “requests an accompanying remand order.” Mot. at 2. HDC states that Intel Corporation consents to dismissal but does not consent to remand.

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HDC appealed from the district court's decision dismissing HDC's complaint without prejudice after concluding that HDC failed to plead allegations supporting the eligibility of the asserted claims under 35 U.S.C. § 101. HDC states that it has now "commenced a new civil action in the same court, adding pleading allegations that [HDC] believes overcomes the dismissal rationale" and "no longer wishes to pursue its appeal of the original dismissal without prejudice." Mot. at 2. HDC, however, requests remand to "provide the district court the maximum ability to determine whether the newly-filed civil action should proceed under the case number of the present original matter, or the case number of the new pleading." *Id.* at 3.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The motion is granted to the extent that the appeal is remanded for the limited purpose of allowing the district court to consider any request by HDC to allow its new action to proceed under the originating case number and to move forward based on the ruling on any such request.

(2) Each side shall bear its own costs.

FOR THE COURT

May 26, 2022

Date

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court

ISSUED AS A MANDATE: May 26, 2022